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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,999	02/19/2004	Shuichi Ohkubo	17449	5322
23389 7590 09/11/2008 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER VERDERAME, ANNA L.				
ART UNIT		PAPER NUMBER		
1795				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,999

Applicant(s)

OHKUBO, SHUICHI

Examiner

ANNA L. VERDERAME

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-083)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1,4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo et al. JP-01-180387 in view of Bechevet et al. JP 2002-211137.

Seo et al teaches a phase change recording composition used in an information recording medium having the specific Composition $(\text{Te}_{100-y}\text{Ge}_y)_{100-x}(\text{In}_z\text{Sb}_{100-z})_x$ where the vales of x,y, and z are in the ranges of $2 \leq x \leq 30$, $40 \leq y \leq 60$, and $5 \leq z \leq 60$. This composition is rich in Tellurium and Germanium. The use of protective layer on one or both sides of the recording layer is disclosed (abstract). The abstract further recites the used of a thin recording film provided on a substrate (abstract). This invention results in a high C/N ratio. Table one of Seo et al. shows the use of two separate sputtering targets GeTe and SbIn, but only one layer is formed having the composition $(\text{Te}_{100-y}\text{Ge}_y)_{100-x}(\text{In}_z\text{Sb}_{100-z})_x$ where x% is $(\text{In}_z\text{Sb}_{100-z})$ and $100-x\%$ is $(\text{Te}_{100-y}\text{Ge}_y)$. However, Seo does not teach the optical recording medium structure recited in the claims. The use of these is double sides media is disclosed (translation at page 4). Data stability

and recording sensitivity are described as favorable (translation at page 20).

Bechevet et al. teaches an optical disk shown in figure one, comprising two recording composites, the second recording composite, that distant from the laser source is read through the first recording composite. The first and second access levels are mutually estranged by a spacer and the whole is put between a first transparent substrate and a second substrate. The medium is intended to be read through the transparent substrate. The first recording composite comprises a dielectric layer, a phase-change recording layer, an optical interference layer, a translucent heat dissipation layer, and other optical interference layers. The second recording composite, located distant from the laser source, is equipped with a reflecting layer applied to the spacer, a dielectric layer, a phase-change recording layer, a second dielectric and a heat sink/reflecting layer (0009-0011). The composition of the dielectric and interference layers formed on either side of the recording layers is preferably ZnS- SiO₂, SiO₂, Si₃N₄, or GeN (0019). The phase change recording layers each have two stable states that are controlled by the laser beam (0018). Table 1 shows that the index of refraction (n) and the absorption coefficient (k) of the phase change materials differ between the crystalline and amorphous states (0023). The phase change composition chosen for this application consists of germanium, indium, antimony, and tellurium, and is chosen for its known property of improving endurance and writing speed (erasure rate) in optical recording media with one access level (0014). The metal alloy of specific composition, $[(\text{Ge}_y\text{Te}_{1-y})_a(\text{Sb}_z\text{Te}_{1-z})_{1-a}]\text{I-b}(\text{In}_{1-x}\text{Te}_x)$ where $0.4 \leq y \leq 0.6$, $0.3 \leq z \leq 0.5$, $0.3 \leq a \leq 0.5$, $0.01 \leq b \leq$

0.3, is used as the phase change composition of the first recording composite. The thickness of the phase change layer can be as little as 6 nm (0019). In an example a recording layer having a thickness of 20 nm is used (0029). Figure 6 shows that the signal to noise ratio increases with writing power (0028). Both the translucent heat dissipation layer and the opaque heat dissipation layer are made of metallic materials and therefore are both heat-dissipative and reflective. The translucent heat dissipation is translucent as a result of its also being thin. As a result, the thin translucent heat dissipation layer fulfills the functions of being both reflective while at the same time enabling the laser to access the phase change composition of the second recording Composite. The thinness of the layer results in less light being attenuated.

Bechevet et al. also makes a single layer optical recording medium, shown in drawing three, comprising a glass substrate, a dielectric layer composed of ZnS-SiO₂, a 20 nm thick phase change recording layer, a ZnS-SiO₂, and finally an aluminum reflective layer. The composition of the phase change recording layer is an alloy of GeInSbTe that is rich in Tellurium and Germanium. The phase-change recording layer is accessed through the glass substrate (0024-0025).

It would have been obvious to one of ordinary skill in the art to make a phase change composition within the limitations of the Seo et al. reference, where $x=12$, $y=40$, and $z=10$ so that the atomic percentages of each atom are 52.8%-Te, 35.2%-Ge, 1.2%-In, and 10.8%-Sb (This corresponds to the composition according to this application where $x=5.94$ and $y=0.20256$) this germanium and tellurium rich composition is within the

range recited in the claims, and further to use this composition in the medium having the structure taught by Bechevet et al. with the reasonable expectation of forming a useful optical recording medium based on the use of similar phase-change compositions by Bechevet et al. and in the case of the two layer media with the double recording capacity of single layer recording medium. Further, it would have been obvious to use a thin germanium and tellurium rich phase-change recording layer having a thickness of 6-13 nm based upon the direction to do so in Bechevet at (0019) and the instruction to use a thin recording layer in order to achieve a high C/N value in the abstract of Seo et al.

The composition taught in this application has atomic percentages of 30.7-38% for Ge, 52.3-53 for Te, 0-15 for Sb, and 0.3-1.4% for In.

3. Claims 1,3-4, 6, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo et al. and Rie et al. (EP 1 172 811).

The teachings of Seo et al. can be found above. However, Seo et al. does not teach the structure recited in the claims.

Rie et al. teaches in example 3 of this reference, the manufacture of the two layer optical recording, medium shown in figure 1. The medium is comprised of a polycarbonate substrate, a first dielectric layer (45 nm), the first interface layer, the first

recording layer, the second interface layer, the second dielectric layer, the first reflective layer 10nm, the fourth interference layer, the third dielectric layer. The thickness of the first recording layer was varied in the range of 3-9 nm. The interference layers of this embodiment were formed of GeN and the dielectric layers were formed of ZnS-SiO₂. A material represented by (Ge-Sn)₄ Sb₂Te₇ was used for the first recording layer. Next, a second substrate was prepared. On this substrate the second reflective layer 80nm, the seventh interference layer, the fifth dielectric layer, the sixth interference layer, the second recording layer (12 nm), the fifth interference layer (3nm) and the fourth dielectric layer (65 nm) were formed by sputtering. The material of the second recording layer was represented by the composition formula Ge₄Sb₂Te₇. Thereafter, the first and second information layers were attached to each other via a UV-curable resin (0014-0019). Both information-recording layers are Te and Ge rich. A linear velocity of 1 to 50 m/s is taught (0033) and (0093). Rie et al. discusses the use of thin recording layers at (0004-0005). Thin recording layers allow for the transmittance of light in multi-layered media, and allow for a high-erasure rate (9m/s). Heat-diffusion function of the reflective layer is discussed at (0019).

It would have been obvious to one of ordinary skill in the art to make a phase change composition within the limitations of the Seo et al. reference, where $x=12$, $y=40$, and $z=10$ so that the atomic percentages of each atom are 52.8%-Te, 35.2%-Ge, 1.2%-In, and 10.8%-Sb (this corresponds to the composition of the present application where $x=5.94$ and $y=0.20256$), this germanium and tellurium rich composition is within the

range recited in the claims, and further to use this composition in the medium having the structure taught by Rie et al. based on the disclosure to do so at (0071) with a reasonable expectation of forming a fully functional optical recording medium with doubled recording capacity. Further, it would have been obvious to form a thin Ge-Te rich recording film having a thickness in the range of 6-13 nm based on the example of Rie et al. and based on the instruction to use a thin recording layer in order to achieve a high C/N value as stated in the abstract of Seo et al.

4. Claims 1,3-4,6, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo et al. (JP 01-180387) and further in view of Rijpers et al. WO 03/044786.

The teachings of Seo et al. can be found above. However, Seo et al. does not teach the structure recited in the claims.

Rijpers et al. teaches an embodiment, shown in figure one, of a multi-stack optical data storage medium for rewritable recording by means of a focused laser-light beam. The medium has a substrate 1, made of polycarbonate with deposited on a side thereof: A first recording stack comprising a phase-change type recording layer. The first recording stack is most remote for the focused laser-light beam, a second recording stack comprising a phase-change type recording layer, and a transparent spacer layer between the recording stacks. The recording layer of the first recording stack comprises the compound with atomic composition Ges.01n5.5Sb65.0Te24.5 and has a thickness

of 10 nm. An Ag reflective layer with a thickness of 100 nm is present in the first recording stack at a side of the recording layer of the first recording stack most remote from the other recording stack. A dielectric layer comprised of $(\text{ZnS})_{80}(\text{SiO}_2)_{20}$ is present between the recording layer and the metal reflective layer. A heat sink layer made of HfNi_{1.2} is present in the first recording stack at the side closest to the second recording stack. The thickness of the heat sink layer is preferably 5-200 nm (6/30). The recording layer of the second recording stack comprises a compound with atomic composition Ge_{5.0}In_{5.5}Sb_{65.0}Te_{24.5} and has a thickness of 6nm. A heat sink layer made of HfNi_{1.2} having a thickness of 80 nm is present in the second recording stack at the side closest to the first recording stack adjacent to the transparent spacer layer. A further heat sink layer made of HfNi_{1.2} having a thickness of 100nm is present in the second recording stack at the side of the recording layer of the second recording stack opposite from the side of the other heat sink layer. Two dielectric layer are present both having a thickness of 20nm and made of the compound $(\text{ZnS})_{80}(\text{SiO}_2)_{20}$ are present in contact with the recording layer of the second recording stack. Last a protective layer made of a laser-light transparent UV curable resin is present adjacent to the further heat sink layer. The protective layer may also be a sheet of polycarbonate that would not be laser-light transparent (10/10-11/10). The substrate may be opaque when the laser- light beam enters the stack via the side opposite from the side of the substrate (8/33- 34).

It would have been obvious to one of ordinary skill in the art to make a phase change composition, within the limitations of the Seo et al reference, where x=12, y=40

and z= 10 so that the atomic percentages of each atom are 52.8%-Te, 35.2%-Ge, 1.2%-In, and 10.8%-Sb, this composition also meets the ranges recited in this application, and to use the composition above in the recording layer of the first and second recording stack of the optical recording medium disclosed in the Rijpers et al. based on the disclosure to do so at (10/21) and (10/30) with a reasonable expectation of forming a fully functional optical recording medium with doubled recording capacity.

5. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seo et al (JP 01-180387) and further in view of Ogawa et al. 6,335,069.

The teachings of Seo et al. can be found above. However, Seo et al. does not teach the structure recited in the claims.

Ogawa et al. teaches the manufacture of a phase change optical disk comprising a substrate, a reflection layer, a first dielectric layer, a recording layer, a second dielectric layer, a second reflective layer, a UV resin coated on the second reflective layer. First, on a polycarbonate substrate having grooves for a laser beam were deposited a light absorption layer made of Au to a film thickness of 10 nm, a first dielectric layer comprising a mixture of ZnS and SiO₂ to a film thickness of 110nm, a recording layer comprising Ge, Te, and Sb to a film thickness of 11 nm, a second dielectric film comprising the same material as the first dielectric layer to a film thickness of 37 nm, and a reflection layer comprising AlTi (Ti 2% atomic) to a film thickness of

70nm. Finally, a UV-curable resin was coated on the reflection layer and cured. The recording layer of the thus obtained optical disk was in an amorphous state and the disk had a reflectivity at a wavelength of 680 nm of 16.9%. Further, in the case where the recording layer of the optical disk was in the crystalline state, the reflectivity was 4.3% (9/10-40). It is further disclosed that as the material for the recording layer Ge-Te-Sb series alloys and Ge-Te-Sb-Bi series alloys are used preferably. Further, the alloys above may be incorporated with a series of elements which includes In (8/12-18). The first gold layer is transparent to the laser beam because it has a thickness of only 10 nm and the AlTi layer is fully reflective because it has a thickness of 70 nm.

It would have been obvious to one of ordinary skill in the art to make a phase change composition, within the limitations of the Seo et al. reference, where $x=12$, $y=40$ and $z=10$ so that the atomic percentages of each atom are 52.8%-Te, 35.2%-Ge, 1.2%-In, and 10.8%-Sb, and to use the composition above in the recording layer of the optical recording medium disclosed in the Ogawa et al. based on the disclosure to do so at (8/12-18) with a reasonable expectation of forming a fully functional optical recording medium based on the use of similar compositions for the recording layer as taught by Ogawa et al. at (8/12-18).

Conclusion

Response to Arguments

6. *Rijpers explicitly teaches a dual-layer optical recording medium wherein the thicknesses of both the first and second recording layer are in the range of 6-13nm. The recording layer are GeInSbTe recording layers.*

The applicant states that the specific composition of claim 1 is critical for realizing improved C/N ratios. This composition and the resulting improved C/N ratios are disclosed by Seo et al. Particularly, see table 1 of Seo wherein C/N ratios of 36 to 53 are recited. In regard to the amendment which requires that "each of the first and second information-recording layers is equal to or greater than 6nm and equal to or smaller to 13 nm" the examiner points to the disclosure of cited reference Rie et al. wherein a first recording layer has a thickness of between 3-9 nm and the second recording layer has a thickness of 12 nm. The applicant argues that they have shown unexpected results over the range of 6nm to 13 nm. This is incorrect. In the first embodiment disks wherein each of the 2 recording layers having a thickness of 8 nm are formed. Recording layers have compositions as taught in table 1, having a specific compositional range like that recited in instant claim 1 give a C/N ratio of equal to or higher than 25 dB. In these example y ranges from 0.02 to 0.1. These C/N ratios are less than those recited by Seo et al. In a second embodiment discs wherein both recording layers have a thickness of 8 nm are formed. The recording compositions of these layers are taught in table 2. In these compositions y is always 0.1. These discs have higher C/N ratios than in example 1, but the C/N ratios are comparable to those

taught in Seo et al. The only difference between applicant's embodiment 1 and 2 is the recording layer composition. Therefore the increased C/N ratios are likely a result of this change and not a result of recording layer thickness. The applicant has not shown criticality of the range 6 nm to 13 nm. No examples outside of this range are given. Further, applicant has not provided evidence that change in C/N is a result of the thickness of the recording layer and not a result of the recording composition. Seo et al. recognizes that recording compositions which overlap with those recited by the applicant give high C/N ratios when used in optical recording media.

Use of the GeInSbTe recording compositions taught by Seo et al. in the dual- layer optical recording medium having Ge-In-Sb-Te recording layer taught by Rijpers would be predictably result in a medium having high C/N ratios based on the disclosure in Seo et al. Further the stability of the data and the sensitivity are discussed as a benefit of the recording layer in Seo et al. at page 20 and the direction two/double recording layer media is disclosed on page 4 of Seo et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNA L. VERDERAME whose telephone number is (571)272-6420. The examiner can normally be reached on M-F 8A-4:30P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on (571)272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. L. V./
Examiner, Art Unit 1795

/Martin J Angebrannt/
Primary Examiner, Art Unit 1795